

AMENDED IN SENATE AUGUST 14, 2012

AMENDED IN SENATE JUNE 25, 2012

AMENDED IN SENATE MAY 1, 2012

AMENDED IN SENATE APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1224

Introduced by Committee on Veterans Affairs (Cook (Chair), Pan (Vice Chair), Block, Gorell, Nielsen, V. Manuel Pérez, Williams, and Yamada)

February 18, 2011

An act to amend Sections 987.60, 987.67, 987.69, 987.71, 987.74, 987.75, 987.785, 987.79, and 987.84 of, and to add Section 987.93 to, the Military and Veterans Code, relating to veterans, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1224, as amended, Committee on Veterans Affairs. Veterans: veterans' farm and home purchases.

The Veterans' Farm and Home Purchase Act of 1974 authorizes the Department of Veterans Affairs to assist veterans in acquiring homes and farms, including cooperative dwelling units, by generally providing that the department may purchase a farm or home that the department then sells to a purchaser, as defined.

This bill would authorize the Department of Veterans Affairs to adopt regulations necessary to implement the act described above for cooperative dwelling units in accordance with the Administrative Procedure Act. The bill would also revise provisions relating to

forfeiture and the calculation of net gain in connection with the sale of a cooperative dwelling unit.

The Veterans' Farm and Home Purchase Act of 1974 requires the purchaser to make an initial payment of at least 2% of the selling price of the property or a higher amount as determined by the Department of Veterans Affairs based on the creditworthiness of the purchaser.

~~This bill would eliminate the requirement that the higher amount determined by the department to be paid by the purchaser be based on the creditworthiness of the purchaser and instead provide that the higher amount be determined based upon~~ *require consideration of the purchaser's* military record, employment record, financial condition, and other similar factors as determined by the Department of Veterans Affairs.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 987.60 of the Military and Veterans Code
2 is amended to read:

3 987.60. (a) The department may acquire the farm or home
4 from its owner or may contract with a veteran for the construction
5 of a dwelling and other improvements for a farm or home, upon
6 the terms agreed under all of the following terms and conditions:

7 (1) The department is satisfied of the desirability of the property
8 submitted.

9 (2) The veteran has agreed with the department that he or she,
10 or members of his or her immediate family, will actually reside
11 on the property within 60 days from the date of purchase by the
12 department, or, if the residence on the property is not complete on
13 the date of purchase, within 60 days after the residence is
14 completed, and will continue to reside on the property until all
15 payments due the department have been paid or the farm or home
16 is sold, except where the occupancy requirement is waived pursuant
17 to Section 987.62.

18 (3) If the department is to contract with a veteran for the
19 construction of a dwelling and other buildings, or for the purchase
20 of a mobilehome, all of the following are required:

1 (A) The veteran shall be the owner of the real property on which
2 the dwelling and other buildings are to be constructed, or shall be
3 the owner of the real property or shall be the owner of an undivided
4 interest in common in a portion of a parcel of real property on
5 which a mobilehome or cooperative dwelling unit is to be situated,
6 and agrees to convey that property to the department without cost.

7 (B) The veteran has paid a reasonable fee set by the department
8 to cover the cost of any preliminary service of the department that
9 may be necessary to process the application.

10 (C) The veteran has filed with the department adequate plans
11 and specifications for the improvements to be constructed upon
12 the real property, together with a contract, executed by a contractor
13 licensed by the State of California for the construction of the
14 improvements in accordance with the plans and specifications
15 within 12 months after the acquisition of the property by the
16 department. The department may require a bond or other security
17 instrument executed by the contractor in an amount determined
18 by the department providing for compliance with the terms of the
19 contract and for the payment of persons furnishing material or
20 labor on the job, executed by a surety company, or other financial
21 institution, authorized to do business in the State of California.
22 The department may also require course-of-construction insurance
23 for public liability, property damage, and workers' compensation.

24 (D) The plans, specifications, contract, and other required
25 documents or security instruments are approved by the department.

26 (E) The veteran has placed in escrow all sums of money to be
27 advanced by him or her, where the cost is in excess of the
28 maximum that may be expended by the department.

29 (b) As used in this section, "immediate family" includes only
30 the veteran's spouse, natural or adoptive dependent children, and
31 parents only if the parents are dependent upon the veteran for 50
32 percent or more of their support.

33 SEC. 2. Section 987.67 of the Military and Veterans Code is
34 amended to read:

35 987.67. (a) Except as set forth in regulations adopted by the
36 department pursuant to Section 987.93 with respect to cooperative
37 dwelling units in lieu of, or in addition to, the provisions of this
38 section, before the purchase of any property by the department
39 there shall be filed with the department (1) an appraisal of the
40 market value of the property by an employee or an authorized

1 agent of the department, (2) an appraisal of the market value
2 of the property by either the Federal Housing Administration or
3 the Veteran's Administration, and in addition there may be filed
4 with the department an appraisal of the market value of the
5 property by an authorized appraiser of a banking corporation
6 formed under the laws of this state or of a national banking
7 association having a place of business in this state, or (3) an
8 appraisal of the market value of the property by an appraiser
9 licensed or certified in this state. Each appraisal shall be
10 certified by the maker thereof. The certification shall state that it
11 is made in good faith, and that the valuation is honestly determined
12 and represents the bona fide opinion of the maker.

13 (b) The department shall establish guidelines to ensure greater
14 participation of state-licensed or state-certified real estate appraisers
15 and shall establish an outreach program to effectively disseminate
16 information concerning the participation to professional appraisal
17 associations or trade groups.

18 SEC. 3. Section 987.69 of the Military and Veterans Code is
19 amended to read:

20 987.69. The department shall then enter into a contract with
21 the veteran for the sale of the property to the veteran. The
22 department shall fix the selling price of the property as the purchase
23 price thereof, as the total cost of improvements constructed, or as
24 the value of the property, as determined by the department when
25 the property is acquired by the department in a manner other than
26 by purchase, to which the department may add all expenses
27 incurred and estimated to be incurred by the department in relation
28 thereto, inclusive of interest, administration, appraisals,
29 examination of title, insurance premiums, mortgage guaranty fees,
30 origination fees, incidental expenses, and the sum deemed
31 necessary to meet unforeseen contingencies. In the case of real
32 property acquired for the purpose of constructing improvements
33 thereon, the department shall forthwith after acquiring that real
34 property enter into the contract with the veteran authorized by this
35 section at a selling price that does not exceed the department's
36 appraised value of the land, if the loan is to include the value of
37 the land, and the amount of the department's appraised value of
38 the improvements to be constructed thereon and any of the other
39 additions herein authorized. After the execution of the contract
40 between the veteran and the department and the making of the

1 initial payment thereon the department shall be authorized to pay
2 the cost of the improvements contracted to be constructed on the
3 real property, making progress payments thereon in the amounts
4 and at those times that the department approves. The department
5 shall, upon written request of the veteran and his or her contractor,
6 have authority to approve additions to or deletions from the
7 improvements contracted to be constructed and any savings
8 affected or added cost incurred shall be deducted from or added
9 to the amount due the department by the veteran under the terms
10 of his or her contract.

11 The department may establish provisions under regulations
12 adopted by the department pursuant to Section 987.93 with respect
13 to cooperative dwelling units in lieu of, or in addition to, those set
14 forth in this section.

15 Where the department enters into a contract for the sale of
16 property on trust to an Indian veteran, the contract shall include
17 the following conditions:

18 (a) The dwelling house or other improvements contracted to be
19 constructed on trust land shall be completed in compliance with
20 the standards of the building code applicable on the trust land. If
21 there is no building code in force on the trust land, the applicable
22 standards shall be those of the building code of the county in which
23 the trust land is located.

24 (b) On the completion of construction, the Indian veteran shall
25 provide to the department an inspection certificate from a qualified
26 building inspector certifying that the dwelling house or other
27 improvements comply with the standards of the building code as
28 required by subdivision (a).

29 SEC. 4. Section 987.71 of the Military and Veterans Code is
30 amended to read:

31 987.71. (a) The purchaser shall make an initial payment of at
32 least 2 percent of the selling price of the property or a higher
33 amount that shall be determined based upon *the creditworthiness*
34 *of the purchaser, and with consideration of his or her* military
35 record, employment record, financial condition, and other similar
36 factors as determined by the department. The department may
37 waive the initial payment in any case where the value of the
38 property as determined by the department from an appraisal equals
39 the amount to be paid by the department plus at least 5 percent. In
40 the case of a purchase requiring a loan guaranty by the United

1 States Department of Veterans Affairs, the department may waive
2 the initial payment and the purchaser shall pay the loan guaranty
3 fee, which may be added to the loan amount. The department may
4 require the purchaser to pay a loan origination fee, not to exceed
5 1 percent of the loan amount, which may be added to the loan
6 amount.

7 (b) The balance of the loan amount may be amortized over a
8 period fixed by the department, not exceeding 40 years for farms
9 or homes, not including cooperative housing stock related to
10 mobilehomes, and not exceeding 30 years for mobilehomes,
11 including cooperative housing stock related to mobilehomes,
12 located in mobilehome parks, as defined in Section 18214 of the
13 Health and Safety Code, together with interest thereon at the rate
14 determined by the department pursuant to Section 987.87 for these
15 amortization purposes.

16 (c) The department may, in order to allow the veteran to
17 purchase the home selected without incurring excessive monthly
18 payments, at the time of initial purchase, postpone the
19 commencement of payment of the principal balance for a period
20 not to exceed five years if the veteran's current income meets the
21 standards for purchase on these terms and if the department
22 determines, in accordance with previously established criteria for
23 these determinations, that the veteran's income can reasonably be
24 expected to increase sufficiently within the five-year period to
25 make the transition to fully amortized principal and interest
26 payments, so long as the total term of the contract of purchase does
27 not exceed 40 years, or 30 years where the contract relates to a
28 mobilehome located in a mobilehome park, as defined in Section
29 18214 of the Health and Safety Code.

30 (d) The purchaser on any installment date may pay any or all
31 installments still remaining unpaid.

32 (e) In any individual case, the department may for good cause
33 postpone, from time to time, upon terms the department determines
34 to be proper, the payment of the whole or any part of any
35 installment of the purchase price or interest thereon.

36 (f) Each installment shall include an amount sufficient to pay
37 the principal and interest on the participation contract to which the
38 interest of the department is subject, and any amount as may be
39 required by a covenant or provision contained in any resolution
40 of issuance.

1 (g) When a purchaser makes an initial payment of less than 20
2 percent of the selling price of the property, the department shall
3 do all of the following:

4 (1) Take prudent measures to minimize losses from loan defaults
5 and loan delinquencies.

6 (2) (A) Ensure the continued financial solvency of the loan
7 program by charging fees to cover the costs, as determined by the
8 department, of any loan guaranty, primary mortgage insurance, or
9 other similar arrangement.

10 (B) Fees charged under this paragraph may be included in the
11 amount of the loan, collected in advance, or collected as part of
12 the monthly payment.

13 (h) (1) Subject to paragraph (2), the department may provide
14 initial payment assistance to lower income first-time purchasers
15 by providing a deferred-payment second loan, upon which simple
16 interest shall be charged at a rate established by the department.

17 (2) A deferred-payment second loan described in paragraph (1)
18 is subject to all of the following conditions:

19 (A) The loan may not exceed 3 percent of the selling price of
20 the farm or home.

21 (B) The loan shall be secured by a deed of trust or, if authorized
22 by the department, another form of security.

23 (C) The loan shall be due and payable upon the payment in full
24 of the contract or upon the sale or transfer of the farm or home.

25 SEC. 5. Section 987.74 of the Military and Veterans Code is
26 amended to read:

27 987.74. (a) All properties purchased by the department shall
28 be covered by insurance. Except as set forth in regulations adopted
29 by the department pursuant to Section 987.93 in lieu of, or in
30 addition to, the provisions of this subdivision, with respect to
31 cooperative dwelling units, insurance purchased by the department
32 shall be guaranteed replacement cost coverage as described in
33 subdivisions (e) and (f) of Section 10102 of the Insurance Code
34 against fire and other hazards for the full replacement cost of the
35 improvements or structures, shall include limited building code
36 upgrade as described in Section 10103 of the Insurance Code, and
37 shall be placed with a company or companies as the department
38 may determine from time to time.

39 The department may charge purchasers a premium to cover the
40 cost to the department for insurance obtained pursuant to this

1 subdivision. The premium shall not exceed the actual cost to the
2 department for the coverage provided.

3 (b) The contract made between the department and the purchaser
4 shall provide that the purchaser maintain the farm or home as his
5 or her place of residence and keep in good order and repair all
6 buildings, fences, and other permanent improvements situated
7 thereon. Insurance policies purchased by the department shall be
8 obtained to insure and keep insured against fire and other hazards,
9 all buildings, fences, and other permanent improvements on the
10 property. All policies shall be written with any loss payable to the
11 department and the purchaser as their interests may appear.
12 Insurance shall be in the amount, with the insurance companies,
13 and under the terms and conditions as may be specified by the
14 department.

15 (c) Upon renewal, the department shall assist the purchaser in
16 determining the insurance level necessary to repair or replace the
17 damaged or destroyed dwelling with like or equivalent construction
18 and in determining how best to purchase additional coverage, if
19 desired. The purchaser shall be solely responsible for requesting
20 in writing and maintaining any additional amounts of insurance
21 necessary to protect his or her interest in the property, and shall
22 bear the risk of any loss in excess of the amount of insurance in
23 force at the time of the loss.

24 (d) The department shall annually send a disclosure notice to
25 all purchasers who have residential property insurance provided
26 through the department. The notice shall identify the type of
27 coverage, and shall disclose all of the following in a clear and
28 reasonable manner:

- 29 (1) The limits of liability for the structure and improvements.
30 (2) The amount of any deductibles.
31 (3) Whether the policy covers the increased costs due to changes
32 in building ordinances or laws regulating construction or repair.
33 (4) A statement explaining the importance of having guaranteed
34 replacement cost coverage.

35 (5) A statement that the policy provided by the department
36 provides limited building code upgrade coverage and the applicable
37 limits and restrictions to that coverage.

38 SEC. 6. Section 987.75 of the Military and Veterans Code is
39 amended to read:

1 987.75. (a) If the purchaser or, if applicable, the related stock
2 corporation, fails or neglects to pay, satisfy, and discharge at
3 maturity all taxes and assessments, and all other charges and
4 encumbrances which are a lien upon the property being purchased
5 from the department, or any part thereof, and also all taxes and
6 assessments levied or assessed upon the interest created by the
7 contract of purchase of such property; or to keep the buildings,
8 fences, other permanent improvements upon such property insured
9 and in good order and repair, or to keep the crops upon such
10 property insured; or to keep in good order and repair all buildings,
11 fences, and other permanent improvements situated upon such
12 property; then, in such event, the department may pay, satisfy,
13 discharge, settle, or compromise the taxes, assessments, charges,
14 or encumbrances, or insure the buildings, fences, permanent
15 improvements, or crops, or do the work and supply the materials
16 necessary to keep the buildings, fences, and other improvements
17 in good order and repair. All moneys so expended by the
18 department shall be added to the selling price of the property and
19 bear interest at the rate of interest designated in Section 987.71
20 from the date of expending the same, and shall be repaid by the
21 purchaser to the department on demand. The department may
22 amortize the repayment of such expenditures or permit repayment
23 in installments upon the terms and conditions which it deems
24 proper.

25 (b) The department may establish provisions under regulations
26 adopted by the department pursuant to Section 987.93 with respect
27 to cooperative dwelling units in lieu of, or in addition to, the
28 provisions of this section.

29 SEC. 7. Section 987.785 of the Military and Veterans Code is
30 amended to read:

31 987.785. Except as set forth in regulations adopted by the
32 department pursuant to Section 987.93 with respect to a cooperative
33 dwelling unit, whenever the department cancels a contract and
34 takes possession of a property pursuant to Section 987.77 and
35 elects to sell the property covered by a forfeited contract, the
36 department may, at its option, establish a procedure for listing the
37 property for sale, together with similarly located properties, with
38 a licensed real estate broker. The department may, in this
39 connection, prepare schedules of properties available for sale by
40 geographic areas and may offer a schedule from time to time to

1 any licensed real estate broker within the geographic area covered
2 by the schedule for a fee which shall be sufficient to cover the
3 costs to the department in compiling the schedules and making
4 them available. If the department enters into a real estate listing
5 agreement, exclusive or otherwise, with a licensed real estate
6 broker, the department shall cooperate with the broker in all
7 customary respects and make the property available at reasonable
8 times for inspections by prospective purchasers.

9 SEC. 8. Section 987.79 of the Military and Veterans Code is
10 amended to read:

11 987.79. (a) Except as otherwise provided in subdivision (b),
12 the department may, in the contract of purchase with a veteran,
13 provide that, in the event of default by the veteran and forfeiture
14 of his or her rights under the contract and subsequent sale of the
15 property by the department, it may pay to the veteran any net gain
16 realized by the department upon the sale. The department is the
17 sole judge of the net gain.

18 (b) The net gain realized by the department upon the sale of a
19 cooperative dwelling unit owned by a limited equity housing
20 cooperative shall be determined in accordance with regulations
21 adopted by the department pursuant to Section 987.93.

22 SEC. 9. Section 987.84 of the Military and Veterans Code is
23 amended to read:

24 987.84. Except as may otherwise be permitted by the
25 department pursuant to regulations adopted by the department
26 pursuant to Section 987.93, the right to declare a forfeiture for
27 breach of a condition contained in any deed to real property or in
28 any cooperative dwelling unit ownership documents may not be
29 enforced as against the interest of the department in said property
30 or any portion thereof.

31 SEC. 10. Section 987.93 is added to the Military and Veterans
32 Code, to read:

33 987.93. The department may adopt regulations necessary to
34 implement this article for cooperative dwelling units that are
35 consistent with the objectives and purposes of this article and in
36 a manner in accordance with the Administrative Procedure Act
37 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
38 Division 3 of Title 2 of the Government Code).

39 SEC. 11. This act is an urgency statute necessary for the
40 immediate preservation of the public peace, health, or safety within

1 the meaning of Article IV of the Constitution and shall go into
2 immediate effect. The facts constituting the necessity are:
3 In order for the Department of Veterans Affairs to offer housing
4 finance opportunities to veterans, including cooperative dwelling
5 loans, as soon as possible, it is necessary that this act go into
6 immediate effect.

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